



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-N-0424]

Agency Information Collection Activities; Proposed Collection; Comment Request; Temporary Marketing Permit Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice invites comments on reporting requirements contained in existing FDA regulations governing temporary marketing permit applications.

DATES: Submit either electronic or written comments on the collection of information by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit electronic comments on the collection of information to <http://www.regulations.gov>. Submit written comments on the collection of information to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE-14526, Silver Spring, MD 20993-0002, [PRASStaff@fda.hhs.gov](mailto:PRASStaff@fda.hhs.gov).

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Temporary Marketing Permit Applications--21 CFR 130.17(c) and (i) (OMB Control Number  
0910-0133)--Extension)

Section 401 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 341) directs FDA to issue regulations establishing definitions and standards of identity for food "[w]henver ... such action will promote honesty and fair dealing in the interest of consumers...." Under section 403(g) of the FD&C Act (21 U.S.C. 343(g)), a food that is subject to a definition and standard of identity prescribed by regulation is misbranded if it does not conform to such definition and standard of identity. Section 130.17 (21 CFR 130.17) provides for the issuance by FDA of temporary marketing permits that enable the food industry to test consumer acceptance and measure the technological and commercial feasibility in interstate commerce of experimental packs of food that deviate from applicable definitions and standards of identity. Section 130.17(c) enables the Agency to monitor the manufacture, labeling, and distribution of experimental packs of food that deviate from applicable definitions and standards of identity. The information so obtained can be used in support of a petition to establish or amend the applicable definition or standard of identity to provide for the variations. Section 130.17(i) specifies the information that a firm must submit to FDA to obtain an extension of a temporary marketing permit.

We estimate the burden of this collection of information as follows:

Table 1.--Estimated Annual Reporting Burden<sup>1</sup>

21 CFR Section/Activity	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
130.17(c)/ Request for Permit	13	2	26	25	650
130.17(i)/ Request for Extension	1	2	2	2	4
Total					654

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of temporary marketing permit applications and hours per response is an average based on our experience with applications received for the past 3 years, and information from firms that have submitted recent requests for temporary marketing permits. Based on this information, we estimate that there will be, on average, approximately 13 firms submitting requests for 2 temporary marketing permits per year over the next 3 years.

Thus, we estimate that 13 respondents will submit 2 requests for temporary marketing permits annually pursuant to § 130.17(c). The estimated number of respondents for § 130.17(i) is minimal because this section is seldom used by the respondents; therefore, the Agency estimates that there will be one or fewer respondents annually with two or fewer requests for extension of the marketing permit under § 130.17(i). The estimated number of hours per response is an average based on the Agency's experience and information from firms that have submitted recent requests for temporary marketing permits. We estimate that 13 respondents each will submit 2 requests for temporary marketing permits under § 130.17(c) and that it will take a respondent 25 hours per request to comply with the requirements of that section, for a total of 650 hours. We estimate that one respondent will submit two requests for extension of its temporary marketing permits under § 130.17(i) and that it will take a respondent 2 hours per request to comply with the requirements of that section, for a total of 4 hours.

Dated: May 29, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

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